IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

Crl.MC.No. 2290 of 2007()

CC.1292/2006 of ADDL.CHIEF JUDICIAL MAGISTRATE (E & O),ERNAKULAM

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PETITIONER:

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1. ROY GEORGE, S/O. SIMON GEORGE,
   POIKKATTIL HOUSE, KUMARAPURAM P.O.,WEST MORAKKALA,
   KUNNATHUNADU VILLAGE, ERNAKULAM DIST.

2. P.A. MOOSA,
   HEAD CLERK, SUB REGISTRY OFFICE, AALANDU,
   KONGORPILLY P.O., (VIA) ALUVA, ERNAKULAM DIST.

BY ADV. SRI.C.J.JOY

RESPONDENT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.2290 Of 2007

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Dated this the 25th day of July, 2007

ORDER

The petitioners are the accused and the complainant in a prosecution under Sec.138 of the Negotiable Instrument Act. According to them, they have settled their disputes. The 1st petitioner/ complainant wants to withdraw the case against the 2nd petitioner. An application to that effect has been filed also before the learned Magistrate. But the learned Magistrate, the petitioners complain, is not disposing of the case. A warrant of arrest has been issued against the 2nd petitioner/accused. In these circumstances, they pray that directions under Section 482 Cr.P.C. may be issued in aid of justice quashing the proceedings.

2. Report of the learned Magistrate was called for. The learned Magistrate has reported that an application for withdrawal had been received but the learned Magistrate entertained doubts about the genuineness of the said application for withdrawal. The complainant was absent. His counsel was also absent. Another counsel represented the matter and it is in these circumstances that doubts arouse and the learned Magistrate did not choose to accept the prayer for compensation.

3. The 1st petitioner submits that he does not want to join issue on the correctness of the report made by the learned Magistrate, but submits that the complainant shall appear before the learned Magistrate and submit that he wants to withdraw the complaint. The case is now posted to 6.8.07, it is submitted.

4. I am satisfied that appropriate directions can be issued in the matter.

i) It is directed that warrant of arrest issued against the 2nd petitioner/accused shall not be executed till 6.8.07.

ii) It is directed that the 1st petitioner/complainant shall appear before the learned Magistrate and file a fresh application for withdrawal of the case. The learned Magistrate shall consider the same and pass appropriate orders on 6.8.07 itself.

ii) The action taken by the learned Magistrate in this matter shall be communicated to this Court by the learned Magistrate after 6.8.07.

5. This Crl.M.C. is allowed to the above extent.

(R.BASANT, JUDGE)

sj